
OLR Bill Analysis

HB 6338 (as amended by House "A")*

AN ACT CONCERNING LANDSCAPE ARCHITECTS.

SUMMARY:

This bill (1) makes several changes in the landscape architect statutes, including allowing corporations and limited liability companies (businesses) to register to practice landscape architecture and broadening the penalties for specified violations; (2) specifically prohibits advertising by nonlicensed tradespersons; and (3) authorizes the Department of Consumer Protection (DCP) to issue retirement status licenses.

*House Amendment "A" adds the provisions (1) prohibiting nonlicensed tradesperson advertising and (2) authorizing DCP retirement status licenses.

EFFECTIVE DATE: July 1, 2011 for the landscape architect provisions, October 1, 2011 for the nonlicensed tradesperson provisions, and January 1, 2012 for the DCP retirement provisions.

LANDSCAPE ARCHITECTS

Registration

The bill allows landscape architects to incorporate and businesses to practice landscape architecture if (1) the landscape architects for the business are either licensed or exempt and (2) the business has been issued a DCP certificate of registration upon authorization from the landscape architect board.

A qualifying business must apply to the board for a certificate of registration on an application form prescribed by DCP, along with an \$80 application fee. Each certificate expires annually and is renewable for a \$200 fee. If the requirements are met, the board must authorize DCP to issue a certificate of registration within 30 days of the

application. The board may refuse to authorize DCP to issue the certificate if it finds grounds for suspending or revoking an existing certificate, such as fraud or misrepresentation.

Each business must designate at least one individual to be in charge of landscape architecture and file their name or names with the board. The business must notify the board of any change in designation within 30 days of the change.

The bill requires landscape architects working for registered businesses to sign, date, and seal all final plans, drawings, specifications, reports, and other related documents they approve or prepare for use or delivery to anyone or for public record in the state.

The bill specifies that it does not relieve businesses of the responsibility for the conduct or acts of its agents, employees, or officers because they have complied with the bill. No individuals practicing landscape architect are relieved of responsibility for services they perform because they are employed by, or have relationship with, a business engaging in landscape architecture.

Penalties

The bill broadens the penalties the board may impose on people who (1) obtain a license or registration through fraud or misrepresentation, (2) engage in fraud or deceit in their professional practice, (3) violate any laws or regulations on the practice of landscape architecture, and (4) are found guilty of general negligence or incompetence, instead of gross acts. It also extends the board's enforcement authority to cover businesses registered to practice landscape architecture in the state.

Currently, the law allows the board to (1) suspend a license for up to one year, (2) revoke it, or (3) officially censure any licensee. The bill eliminates the one year cap on suspensions; thus allowing the board to impose unlimited suspensions. The bill removes the board's authority to censure. It applies all penalties to both licenses and registrations and authorizes the board to (1) issue a letter of reprimand, (2) place license

and registration holders on probationary status with certain conditions, (3) issue a civil penalty of up to \$1,000, or (4) a combination of any penalties listed. It authorizes the board to modify or discontinue any action it takes. The bill also allows the board to authorize DCP to reissue any registration that has been revoked. Currently, it can only reissue licenses.

The bill eliminates the requirement that the board notify the secretary of the state when a license is suspended or revoked. It also gives parties discretion to appeal a board decision to the judicial district court where they live, instead of only to the New Britain Superior Court.

UNLAWFUL NONLICENSED ADVERTISING

The law prohibits anyone from (1) willfully and falsely pretending to qualify to practice a licensed trade or (2) offering to or practicing a licensed trade without a license or registration. This bill specifies that the prohibition applies to people who, in a print, electronic, television or radio advertisement or listing offer to perform work they are not licensed to perform. The covered trades are: electrical; plumbing; heating, piping, and cooling; elevator installation and repair; solar electrical; solar thermal; fire protection sprinkler systems; gas hearths; irrigation; medical gas and vacuum systems; sheet metal; and automotive and flat glass.

By law, the consumer protection commissioner and the licensing boards overseeing these trades may impose civil penalties (see BACKGROUND) for licensure violations, including the advertising ban the bill establishes. In addition, violators commit a class B misdemeanor (punishable by up to six month's imprisonment, a fine of up to \$1,000, or both), an unfair or deceptive trade practice, and are required to pay restitution. If they cannot pay restitution, courts may sentence them to probation.

RETIREMENT STATUS LICENSE

The bill allows anyone age 65 or older who needs to renew a DCP-issued professional or occupational license under Title 20, to pay \$20 to

obtain a retirement status license instead of paying the regular license renewal fee. The bill bars a retirement status licensee from practicing or offering to practice the occupation or trade for which he or she was licensed.

An applicant must submit his or her original license to DCP, along with a letter (1) requesting the retirement status, (2) expressing the licensee's current retirement status, and (3) agreeing not to actively engage in the practice of the occupation or trade for which he or she was originally licensed.

If DCP issues a retirement status license, it must return the original license to the applicant bearing a designation or stamped "Retired." The DCP commissioner may, for good cause, grant a retirement status license to a person under age 65.

A licensee may restore his or her original license by (1) submitting a DCP form requesting reinstatement and (2) paying the current annual license fee.

BACKGROUND

Civil Penalties

The DCP commissioner may impose fines of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring less than three years after a previous violation.

Criminal Penalty

A class B misdemeanor is punishable by up to six month's imprisonment, a fine of up to \$1,000, or both. Before anyone may be prosecuted for a licensing law violation, the DCP commissioner must (1) review the activity in question and (2) make a written determination that the activity requires a license and is not the subject of a bona fide dispute between members of a trade or craft, regardless of whether they are licensed.

Connecticut Unfair Trade Practices Act (CUTPA)

CUTPA prohibits unfair and deceptive acts or practices. It allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 15 Nay 0 (03/03/2011)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 44 Nay 5 (04/18/2011)

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (04/28/2011)